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Before The
Federal Communications Commission
Washington, D.C. 20554

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JUN 13 1997

Federal Communications Commission
Office of Secretary

In the Matter of

Advanced Television Systems
and Their Impact Upon the
Existing Television Broadcast
Service

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MM Docket No. 87-268

To: The Commission

PETITION FOR RECONSIDERATION

Ozark Public Telecommunications, Inc. ("Ozark"), licensee of noncommercial educational television station KOZK, Channel 21, Springfield, Missouri, by its counsel, hereby petitions for reconsideration of the *Sixth Report and Order* in MM Docket No. 87-268, FCC 97-115 (released April 21, 1997) ("*Sixth R&O*"), insofar as the *Sixth R&O* allocates Channel *23 as the paired digital TV channel for Ozark's current Channel *21. As described herein, Ozark has already undertaken significant efforts and costs to implement an earlier-proposed DTV channel--Channel *42--and seeks to substitute Channel *42 for Channel *23 in the Table of Allotments. Channel *42 can be used without interference to other stations or allotments. In this single respect, Ozark seeks relief by this petition.

At the outset, Ozark compliments the Commission on the substantial effort reflected in the DTV Table of Allotments and the *Fifth* and *Sixth Reports and Orders* in this proceeding. Ozark appreciates that the FCC has recognized and tried to

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accommodate the unique needs of public television stations. Ozark also understands that complicated considerations that will have to be undertaken by the Commission as it deals with this Petition and others filed by commercial and noncommercial educational television stations. Nevertheless, Ozark believes that the alternative DTV channel as requested in this Petition would serve the public interest.

Ozark has operated station KOZK on Channel *21 at Springfield since 1975, providing high quality educational, informational and cultural programming, including children's programming. By necessity, as a noncommercial educational licensee, Ozark must be a careful steward of its resources, even while it seeks to offer the highest quality public broadcasting service. Ozark has extensively planned its move into the digital television era and looked forward to the early, innovative activation of DTV facilities. The allocation of Channel *23 as its paired DTV channel, however, creates enormous and unnecessary obstacles to the achievement of its goals.^{1/}

Several years ago, in 1992, in the *Second Further Notice of Proposed Rule Making* in this docket, FCC 87-268 (released August 14, 1992), the Commission proposed criteria to be applied to design a table of DTV allotments. The *Second Further Notice* included a

^{1/} In view of the Commission's proposals, and in recognition of the fact that the Commission and the broadcasting industry urged that individual broadcasters not file separate comments, Ozark saw no necessity to participate in the proceeding earlier on an individual basis. Ozark did participate, however, in the form of comments filed on its and other public TV stations' behalf by the Public Broadcasting Service and America's Public Television Stations. Therefore, the requirements of Section 1.429 of the Rules with respect to petitions for reconsideration should be deemed satisfied. If necessary, however, Ozark requests waiver of Section 1.429 to the extent necessary for the Commission to consider its petition, in view of the public interest issues raised herein.

draft table of allotments which, for Springfield, included Channel 42. At the same time, Ozark faced the necessity to replace its transmitting antenna for KOZK. In order to be able to use the same antenna for both KOZK and the eventual DTV paired channel, KOZK chose to acquire a panel antenna that could radiate efficiently on both Channel *21 and Channel 42 (which represented at that time Ozark's best efforts to determine what channel might be available). The cost of the special antenna, which was installed in 1993, was about \$300,000.^{2/}

However, in the *Sixth R&O*, the Commission allocated Channel *23 for KOZK. Obviously, if the Commission were writing on a clean slate, this would have been a very desirable channel for pairing with KOZK. However, in view of its substantial investment in facilities that will accommodate Channel *42, and in view of the availability of Channel *42, KOZK seeks to substitute Channel *42 for Channel *23.

As noted in the attached Engineering Statement of Donald Markley, Ozark's consulting engineer, Channel *42 will work as the paired channel for KOZK.

Substantial hardship will be inflicted upon Ozark if it is required to activate its DTV channel on Channel *23. Its good faith investment (and that of the Federal Government) in the panel antenna will have been wasted. This result would delay substantially Ozark's activation of DTV facilities for KOZK, and it would drain the

^{2/} The project was underwritten by a grant from the Public Telecommunications Facilities Program of NTIA, U.S. Department of Commerce (Grant No. 92030). The KOZK antenna is still subject to the Federal interest.

station of financial resources that could better be put to initiating DTV service in the market.

For the foregoing reasons, Ozark requests reconsideration of the *Sixth R&O* to the extent that it allocates Channel *23 for KOZK in Springfield, and urges that the Commission allocate Channel *42 instead.

Respectfully submitted,

OZARK PUBLIC TELE-
COMMUNICATIONS, INC.

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June 13, 1997

D.L. Markley & Associates, Inc.

Consulting Engineers

ENGINEERING STATEMENT

The following engineering statement has been prepared for Ozark Public Telecommunications, Inc., licensee of non-commercial television station KOZK in Springfield, Missouri, and is in support of their request for modification of Section 73.622(b), DTV Table of Allotments, of the Commission's Rules and Regulations.

In a previous proposed rule making, the Commission had indicated that UHF Channel 42 would be assigned to KOZK for digital television use. Based on that indication, KOZK purchased an antenna which could be used for both their NTSC channel, 21, and for channel 42. That antenna is now in place and has been in use for some time.

In the Sixth Report and Order in MM Docket No. 87-268, the Commission assigned UHF Channel 23 to KOZK. That channel would not allow use of the existing antenna and would require either the replacement of the antenna for both channels or the addition of an additional antenna and the replacement of the existing tower to accommodate the two antennas. The existing tower would not support an additional antenna and transmission line.

D.L. Markley & Associates, Inc.

Consulting Engineers

A study has been completed of the DTV Table of Allotments and the NTSC Table of Allotments to determine if Channel 42 would still be usable at the KOZK site. It was determined that four DTV allocations and one NTSC allocation would be of concern. With the distances involved, those allocations are:

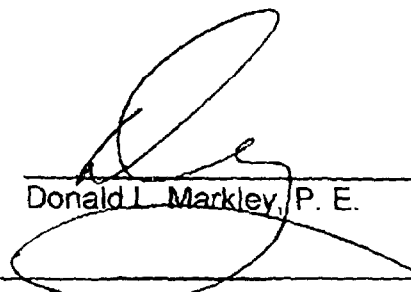
City, State	Ch.	Latitude	Longitude	Dist.	Req.
Joplin, MO	43	37°04'36"	94°32'10"	141.85 km.	88.5
Kansas City, MO	42	39°04'20"	94°35'45"	251.26	223.7
Tulsa, OK	42	36°01'10"	95°39'34"	276.31	223.7
Little Rock, AR	42	34°52'28"	92°00'35"	273.50	244.6
Springfield, MO	27	37°11'40"	92°56'04"	2.99	<24.1

It is apparent that Channel 42 could be used for a DTV allotment at the KOZK site in Springfield, Missouri and meet all spacing requirements to both other DTV allocations as proposed in the Sixth Report and Order and the existing NTSC allocation table. Therefore, it is requested that Section 73.622(b) be changed to:

Community	Existing	Proposed
Springfield, MO	19, *23, 28c, 44, 52	19, 28c, *42, 44, 52

The preceding statement was prepared by me or under my direction and is true and correct to the best of my knowledge and belief.

Date: June 11, 1997


Donald L. Markley, P. E.